

- Exhibit 4 – Qualified Special Entry of Appearance and Reservation of Time on behalf of Ace and Atlas; and
- Exhibit 5 – Qualified Special Entry of Appearance and Reservation of Time and Defenses on behalf of Sedgwick; and
- Exhibit 6 – State Court Docket Sheet as of July 29, 2022.¹

2. Atlas’s first receipt of Plaintiff’s Original Petition was through service of process on July 1, 2022. Ace has not been served. Sedgwick was served on July 1, 2022.

3. Upon information and belief, apart from the documents in the attached Exhibits 1 through 5, no other pleadings or motions have been filed.

4. Ace, Atlas, and Sedgwick all consent to removal.

5. This Notice of Removal is filed within thirty (30) days of Atlas’s first notice or receipt of Plaintiff’s Petition and is therefore timely filed pursuant to 28 U.S.C. § 1446(b).

6. Removal of a civil action from state court to federal court is governed by 28 U.S.C. § 1441, *et seq.* Section 1441(a) states:

Any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to which the district court of the United States for the district and division embracing the place where such action is pending.

Cases within a federal court’s original jurisdiction are removable. 28 U.S.C. §1441(b). This Court has original, federal question jurisdiction over this matter because Plaintiff’s claims against Ace and Atlas are brought under and/or are completely preempted by the Carmack Amendment (49 U.S.C. § 14706).

Federal courts have original jurisdiction over federal questions, such as those involving federal laws like the Carmack Amendment here. *See* 28 U.S.C. § 1331 (“The district courts shall

¹ Ace and Atlas will request an updated copy of the state court docket sheet from the state court. Upon receipt of the updated copy, Ace and Atlas will supplement this notice of removal with the same.

have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”).

Moreover, 28 U.S.C. § 1337(a) provides:

(a) The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies: Provided, however, That the district courts shall have original jurisdiction of an action brought under section 11706 or 14706 of title 49, only if the matter in controversy for each receipt or bill of lading exceeds \$10,000, exclusive of interest and costs.

7. The above-referenced action is a civil action of which this Court has original, federal question jurisdiction under Sections 1331 and 1337(a), and under 49 U.S.C. 14706 (the Carmack Amendment), because Plaintiff’s claims against Ace and Atlas are for loss and/or damage to Plaintiff’s household goods and personal property, which were shipped interstate from Oklahoma City, Oklahoma to University Park, Texas pursuant to duly issued bill of lading contract. *See* Plaintiff’s Original Petition at 2-3, ¶¶7-12 (describing bill of lading contract and interstate move); *id.* at 6-7, ¶¶24-31 (seeking damages “for the actual loss or injury to the Gardner Property”). Based on the Petition, the damages Plaintiff seeks far exceed \$10,000. *See* Plaintiff’s Original Petition at 9 (alleging “damages in excess of \$75,000”). The exclusive remedy for loss and damage to goods moved interstate is under the Carmack Amendment, 49 U.S.C. Section 14706. *See Underwriters at Lloyds of London v. North American Van Lines*, 890 F.2d 1112 (10th Cir. 1989); *Radial Engines, Ltd. v. YRC Freight, Inc.*, No. CV-19-00841-PRW, 2021 WL 665536, at *1 (W.D. Okla. Feb. 19, 2021).

8. Written notice of the filing of this Notice of Removal has been given to all parties herein, and a copy of this Notice has been mailed to the District Clerk of Oklahoma County, Oklahoma.

9. Pursuant to Local Rules, a Civil Cover Sheet is also being filed herewith.

WHEREFORE, Defendants remove this action from the District Court of Oklahoma County, Oklahoma, to this Court on or about July 29, 2022, pursuant to 28 U.S.C. §§ 1441 and 1446.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS
ACE MOVING AND STORAGE, LLC AND
ATLAS VAN LINES, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of July, 2022, this Notice of Removal was filed in the United States District Court for the Western District of Oklahoma. A true and correct copy of said Notice of Removal was served upon the above-named plaintiff, by mailing copies to the plaintiff's attorney of record. A copy of the Notice of Filing Notice of Removal was promptly filed with the Clerk of Court in Oklahoma County, OK

I also electronically transmitted the attached document to the Clerk of Court using the ECF filing System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

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